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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 CRAIG CARROLL,

12 Plaintiff,

13 v.

14 WARDEN, *et al.*,

15 Defendants.  
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Case No. 1:21-cv-0821 HBK

ORDER DENYING PLAINTIFF'S MOTION  
TO APPOINT COUNSEL

(Doc. No. 3)

18 Plaintiff, who is a prisoner, initiated this action by filing a *pro se* civil rights complaint  
19 filed under 42 U.S.C. § 1983 on May 24, 2021. (Doc. No. 1). Plaintiff accompanied his  
20 complaint with a motion for leave to appoint counsel filed May 24, 2021. (Doc. No. 3). The  
21 court has not screened Plaintiff's complaint. *See* 28 U.S.C. § 1915A.

22 The United States Constitution does not require appointment of counsel in civil cases. *See*  
23 *Lewis v. Casey*, 518 U.S. 343, 354 (1996) (explaining *Bounds v. Smith*, 430 U.S. at 817, did not  
24 create a right to appointment of counsel in civil cases). Under 28 U.S.C. § 1915, this court has  
25 discretionary authority to appoint counsel for an indigent to commence, prosecute, or defend a  
26 civil action. *See* 28 U.S.C. § 1915(e)(1) (stating the court has authority to appoint counsel for  
27 people unable to afford counsel); *see also United States v. McQuade*, 519 F.2d 1180 (9th Cir.  
28 1978) (addressing relevant standard of review for motions to appoint counsel in civil cases) (other

1 citations omitted). However, motions to appoint counsel in civil cases are granted only in  
2 “exceptional circumstances.” *Id.* at 1181. The court may consider many factors to determine if  
3 exceptional circumstances warrant appointment of counsel including, but not limited to, proof of  
4 indigence, the likelihood of success on the merits, and the ability of the plaintiff to articulate his  
5 or her claims *pro se* in light of the complexity of the legal issues involved. *Id.*; *see also Rand v.*  
6 *Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *withdrawn in part on other grounds on reh’g en*  
7 *banc*, 154 F.2d 952 (9th Cir. 1998).

8 Plaintiff has not met his “burden of demonstrating exceptional circumstances.” *Jones v.*  
9 *Chen*, 2014 WL 12684497, at \*1 (E.D. Cal. Jan. 14, 2014). Plaintiff argues appointment of  
10 counsel is warranted because he can neither afford nor locate an attorney. (Doc. No. 3).  
11 Plaintiff’s indigence does not qualify “as an exceptional circumstance in a prisoner civil rights  
12 case.” *Montano v. Solomon*, 2010 WL 2403389, at \*2 (E.D. Cal. June 11, 2010); *Callender v.*  
13 *Ramm*, 2018 WL 6448536, at \*3 (E.D. Cal. Dec. 10, 2018). Further, Plaintiff’s inability to find  
14 counsel is not “a proper factor for the Court to consider in determining whether to request  
15 counsel.” *Howard v. Hedgpeth*, 2010 WL 1641087, at \*2 (E.D. Cal. Apr. 20, 2010).

16 As noted, Plaintiff’s complaint has yet to be screened and the court thus cannot assess  
17 whether Plaintiff will succeed on the merits. There is therefore no basis for the court taking the  
18 extraordinary step of appointing counsel. Should this case progress and Plaintiff’s situation  
19 change such that he can demonstrate exceptional circumstances, he may renew his motion for  
20 appointment of counsel at that time.

21 Accordingly, it is **ORDERED**:

22 Plaintiff’s motion to appoint counsel (Doc. No. 3) is **DENIED** without prejudice.  
23 IT IS SO ORDERED.

24 Dated: May 25, 2021

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE